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IN THE

Supreme Court of the United States

OCTOBER TERM, 1961.

No. 717

PAUL CRUMP,

Petitioner.

vs.

FRANK G. SAIN, Sheriff,

Respondent.

PETITION FOR REHEARING.

DONALD PAGE MOORE
105 West Adams Street
CEntral 6-6945
Chicago, Illinois
Attorney for Petitioner

OVERTON, MARKS, SIMONS & HOUGHTELING
105 West Adams Street
CEntral 6-6945
Chicago, Illinois
Of Counsel.

The Scheffer Press, Inc., 118 South Clinton Street, Chicago 6, Illinois

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Now comes petitioner Paul Crump, by his attorney Donald Page Moore, and petitions the Court to rehear and reconsider its denial of the petition for certiorari in this case, entered on March 26, 1962 (Mr. Justice Douglas and Mr. Justice Brennan dissenting).

This petition is presented pursuant to Rule 58(2) of this Court.

ADDITIONAL QUESTION PRESENTED.

Was not petitioner denied due process of law when the Illinois Supreme Court explicitly weighed the probable credibility of his confession in determining whether it was voluntary?

ADDITIONAL REASONS FOR GRANTING THE WRIT.

The decision of the Illinois Supreme Court in petitioner's case squarely conflicts with the holding of this Court in *Rogers v. Richmond*, 365 U.S. 534 (1961). In considering the question whether petitioner's confession was coerced in violation of the Fourteenth Amendment (see 12 Ill. 2d at 404), the Illinois Supreme Court explicitly stated:

> "Of considerable significance is the fact that the officers found the revolver at the place designated by the defendant. Of more than passing relevance is the fact that the inquiring officers asked the defendant about a grey felt hat, size 7, Dobbs make, bearing the name of J. G. Tobias, 2403 W. Madison Street, Chicago. Defendant said it was his hat that he wore on the day of the robbery and that it was lost in flight. In placing the hat upon his head, it was found that it fit him. The mask and gloves also found in the path of defendant's departure were identified by him."
>
> *People* v. *Crump*, 12 Ill.2d 402, 405 (1958).

Thus the Illinois Supreme Court has explicitly weighed the probable credibility of petitioner's confession in reaching its conclusion that the confession was not coerced in violation of the Fourteenth Amendment. In so doing, the Illinois Supreme Court has flatly contravened the precise holding of *Rogers v. Richmond*.

This holding by the Illinois Supreme Court is in accordance with a long line of Illinois holdings to the same effect. For example, in *People* v. *Fox*, 319 Ill. 606, 616 (1926), the Illinois Supreme Court stated:

> "The rule requiring a showing that a confession is voluntary . . . 'was not established to protect the

guilty against his truthful confession, but is designed to guard the innocent against a false confession . . .'"

Accord, *People* v. *Miller*, 13 Ill. 2d 84, 96 (1958), *People* v. *Hall*, 413 Ill. 615, 623-24 (1953), *People* v. *Lazenby*, 403 Ill. 95, 101 (1949), *People* v. *Klyczek*, 307 Ill. 150, 155 (1923).

CONCLUSION.

Petitioner is awaiting execution in the State's electric chair. The key issue in his case has never been reviewed by a court which applied a proper Constitutional standard. This circumstance, in conjunction with the circumstances which led two Justices of this Court to dissent from the original denial of certiorari, warrants a full hearing by this Court.

WHEREFORE, petitioner prays that this Court reconsider its denial of the petition for certiorari.

Respectfully submitted,

DONALD PAGE MOORE,
Attorney for Petitioner

CERTIFICATE.

Donald Page Moore, a member of the bar of the Supreme Court of the United States, hereby certifies that the attached petition for rehearing is presented in good faith and not for delay, and is restricted to substantial grounds available to petitioner although not previously presented to this Court.

DONALD PAGE MOORE,
Attorney for Petitioner